

ASSEMBLY BILL

No. 1116

Introduced by Assembly Member Yee

February 22, 2005

An act to amend Sections 4935 and 4938 of the Business and Professions Code, relating to acupuncture.

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, as introduced, Yee. Acupuncture.

The Acupuncture Licensure Act provides for the licensure and regulation of acupuncturists by the Acupuncture Board. The act makes the unlicensed practice of acupuncture, as defined, unlawful except as otherwise specified, and sets forth requirements for licensure, including education and training requirements.

This bill would additionally require an applicant for licensure to complete a postgraduate residency under the supervision of a licensed acupuncturist.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 4935 of the Business and Professions
- 2 Code is amended to read:
- 3 4935. (a) (1) It is a misdemeanor, punishable by a fine of not
- 4 less than one hundred dollars (\$100) and not more than two
- 5 thousand five hundred dollars (\$2,500), or by imprisonment in a
- 6 county jail not exceeding one year, or by both that fine and
- 7 imprisonment, for any person who does not hold a current and
- 8 valid license to practice acupuncture under this chapter or to hold

1 himself or herself out as practicing or engaging in the practice of
2 acupuncture.

3 (2) It is a misdemeanor, punishable by a fine of not less than
4 one hundred dollars (\$100) and not more than two thousand five
5 hundred dollars (\$2,500), or by imprisonment in a county jail not
6 exceeding one year, or by both that fine and imprisonment, for
7 any person to fraudulently buy, sell, or obtain a license to
8 practice acupuncture, or to violate the provisions of this chapter.

9 (b) Notwithstanding any other provision of law, any person,
10 other than a physician and surgeon, a dentist, or a podiatrist, who
11 is not licensed under this article but is licensed under Division 2
12 (commencing with Section 500), who practices acupuncture
13 involving the application of a needle to the human body,
14 performs any acupuncture technique or method involving the
15 application of a needle to the human body, or directs, manages,
16 or supervises another person in performing acupuncture
17 involving the application of a needle to the human body is guilty
18 of a misdemeanor.

19 (c) A person holds himself or herself out as engaging in the
20 practice of acupuncture by the use of any title or description of
21 services incorporating the words “acupuncture,” “acupuncturist,”
22 “certified acupuncturist,” “licensed acupuncturist,” “oriental
23 medicine,” or any combination of those words, phrases, or
24 abbreviations of those words or phrases, or by representing that
25 he or she is trained, experienced, or an expert in the field of
26 acupuncture, oriental medicine, or Chinese medicine.

27 (d) Subdivision (a) shall not prohibit a person from
28 administering acupuncture treatment as part of his or her
29 educational training if he or she *meets one of the following*
30 *requirements*:

31 (1) Is engaged in a course or tutorial program in acupuncture,
32 as provided in this chapter; ~~or~~.

33 (2) Is a graduate of a school of acupuncture approved by the
34 board and participating in ~~a~~ *either of the following*:

35 (A) A postgraduate review course that does not exceed one
36 year in duration at a school approved by the board.

37 (B) A postgraduate residency pursuant to subdivision (f) of
38 Section 4938.

39 SEC. 2. Section 4938 of the Business and Professions Code is
40 amended to read:

1 4938. The board shall issue a license to practice acupuncture
2 to any person who makes an application and meets the following
3 requirements:

4 (a) Is at least 18 years of age.

5 (b) Furnishes satisfactory evidence of completion of one of the
6 following:

7 (1) An educational and training program approved by the
8 board pursuant to Section 4939.

9 (2) Satisfactory completion of a tutorial program in the
10 practice of an acupuncturist which is approved by the board.

11 (3) In the case of an applicant who has completed education
12 and training outside the United States and Canada, documented
13 educational training and clinical experience which meets the
14 standards established pursuant to Sections 4939 and 4941.

15 (c) Passes a written examination administered by the board
16 that tests the applicant's ability, competency, and knowledge in
17 the practice of an acupuncturist. The written examination shall be
18 developed by the Office of Examination Resources of the
19 Department of Consumer Affairs.

20 (d) Is not subject to denial pursuant to Division 1.5
21 (commencing with Section 475).

22 (e) Completes a clinical internship training program approved
23 by the board. The clinical internship training program shall not
24 exceed nine months in duration and shall be located in a clinic in
25 this state, which is approved by the board pursuant to Section
26 4939. The length of the clinical internship shall depend upon the
27 grades received in the examination and the clinical training
28 already satisfactorily completed by the individual prior to taking
29 the examination. On and after January 1, 1987, individuals with
30 800 or more hours of documented clinical training shall be
31 deemed to have met this requirement. The purpose of the clinical
32 internship training program shall be to assure a minimum level of
33 clinical competence.

34 (f) *Completes a postgraduate residency requirement*
35 *comprised of a minimum number of hours, as set forth by the*
36 *board in regulation, of practice under the supervision of a*
37 *licensed acupuncturist. For purposes of this section,*
38 *"supervision" means that a licensed acupuncturist is physically*
39 *present in the treatment facility during the performance of those*
40 *procedures.*

- 1 Each applicant who qualifies for a license shall pay, as a
- 2 condition precedent to its issuance and in addition to other fees
- 3 required, the initial licensure fee.

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